

EXHIBIT B



UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

Address Reply to the
Division Indicated
and Refer to Initials and Number
ALH:JRR:jad

October 11, 1978

Mr. John L. Currin
Counselor & Secretary
The American National Red Cross
National Headquarters
Washington, D. C. 20006

Dear Mr. Currin:

Your letter of September 12, 1978 to Attorney General Bell, regarding use of the insignia of the American National Red Cross (ANRC) was referred to the Criminal Division for consideration and reply. With your letter, you furnished for our information materials, bearing on the history of the ANRC, its legal status, and policies regarding use of its insignia. You asked for the approval of the Department of Justice of an interpretation of 18 U.S.C. 706 that would ". . . permit the use of its [ANRC] name and emblem by non-Red Cross organizations whenever the specific use can reasonably be regarded as primarily for the benefit of the American Red Cross, even though some incidental (sic), although substantial, benefit might also accrue to the non-Red Cross entity." Seven examples of such use were outlined in the supporting materials.

Inasmuch as we concur in your view that the ANRC is an instrumentality of the United States, we are pleased to furnish you with the benefit of our views on the issue presented. As no issue of fraudulent use is presented, the key language is the limitation in the prohibitions against use of the insignia, [contained in the second paragraph of 18 U.S.C. 706], to persons "other than the American National Red Cross and its duly authorized employees and agents" We note that mere authorization is not enough. The authorization may run only to ANRC employees and agents.

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However, when such action serves a purpose reasonably related to the proper activities and needs of the ANRC, a request by the ANRC that a non-ANRC entity or person utilize the insignia in the course of an activity furthering in reasonable degree the operations of the ANRC, that entity or person would appear to us to be a duly authorized agent of the ANRC for the given purpose and thus without the prohibitions of the statute. The request should specifically designate the non-ANRC entity as an agent of the ANRC for the purpose of display of the insignia. That some benefit accrues to an agent in the course of his actions for his principal does not invalidate the agency, unless the agent is enriching himself at the expense of the principal in violation of the agency agreement and relationship. This is so even though the agency activity may be of more benefit to the agent than the principal.

More specifically, if in the seven examples furnished, ANRC were to request that use be made of its insignia as one term of an appropriately written agreement entered into by and with the ANRC and the non-ANRC entity concerned, we would find no violation of 18 U.S.C. 706.

Please advise us if we may be of further assistance to you on this subject.

Very truly yours,

Philip B. Heymann
Assistant Attorney General
Criminal Division

Alfred L. Hantman

By: ALFRED L. HANTMAN, Chief
General Crimes Section